

years after final settlement. This includes all books and other evidence bearing on the Carrier's costs and expenses under this contract. The Carrier shall make these records and documents available to the Government, at the Carrier's office, at all reasonable times, without any direct charge. If approved by the Contracting Officer, photographs, microphotographs, or other authentic reproductions may be maintained instead of original records and documents.

(End of clause)

[62 FR 47579, Sept. 10, 1997]

1652.249-72 FEHBP termination for default—negotiated benefits contracts.

As prescribed in §1649.101-72, the following clause shall be inserted in all FEHBP contracts.

**FEHBP TERMINATION FOR DEFAULT—
NEGOTIATED BENEFITS CONTRACTS (JAN 1998)**

(a) (1) The Government may, subject to paragraphs (c) and (d) below, by written notice of default to the Carrier, terminate this contract in whole or in part if the Carrier fails to—

(i) Perform the services within the time specified in this contract or any extension;

(ii) Make progress, so as to endanger performance of this contract (but see subparagraph (a)(2) below); or

(iii) Perform any of the other provisions of this contract (but see subparagraph (a)(2) below).

(2) The Government's right to terminate this contract under subdivisions (1)(ii) and (1)(iii) above, may be exercised if the Carrier does not cure such failure within 10 days (or more if authorized in writing by the Contracting Officer) after receipt of the notice from the Contracting Officer specifying the failure.

(b) If the Government terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Contracting Officer considers appropriate, supplies or service similar to those terminated, and the Carrier will be liable to the Government for any excess costs for those supplies or services. However, the Carrier shall continue the work not terminated.

(c) Except for defaults of subcontractors at any tier, the Carrier shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Carrier. Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and

(9) unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the Carrier.

(d) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Carrier and subcontractor, and without the fault or negligence of either, the Carrier shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Carrier to meet the required delivery schedule.

(e) If this contract is terminated for default, the Government may require the Carrier to transfer title and deliver to the Government, as directed by the Contracting Officer, any completed or partially completed information and contract rights that the Carrier has specifically produced or acquired for the terminated portion of this contract.

(f) If, after termination, it is determined that the Carrier was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Government.

(g) The rights and remedies of the Government in this clause are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

[62 FR 47580, Sept. 10, 1997]

**Subpart 1652.3—FEHBP Clause
Matrix**

1652.370 Use of the matrix.

(a) The matrix in this section lists the FAR and FEHBP clauses to be used with contracts based on cost analysis and contracts based on a combination of cost and price analysis. Carriers shall submit initial applications and requests for renewals on the basis that the new contract or contract renewal will include the clauses indicated.

(b) Certain contract clauses are mandatory for FEHBP contracts. Other clauses are to be used only when made applicable by pertinent sections of the FAR or FEHBP. An "M" in the "Use Status" column indicates that the clause is mandatory. An "A" indicates that the clause is to be used only when the applicable conditions are met.

(c) Clauses are incorporated in the contract either in full text or by reference. If the full text is to be used, the

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matrix indicates a “T”. If the clause is incorporated by reference, the matrix indicates an “R”.

FEHB CLAUSE MATRIX

Clause No.	Text Reference	Title	Use Status	Use With Experience Rated Contracts	Use With Community Rated Contracts
FAR 52.202-1	FAR 2.201	Definitions	M	T	T
FAR 52.203-3	FAR 3.202	Gratuities	M	T	T
FAR 52.203-5	FAR 3.404	Covenant Against Contingent Fees	M	T	T
FAR 52.203-7	FAR 3.502-3	Anti-Kickback Procedures	M	T	T
FAR 52.203-12	FAR 3.808(b)	Limitation on Payments to Influence Certain Federal Transactions	M	T	T
1652.203-70	1603-7003	Misleading, Deceptive, or Unfair Advertising	M	T	T
1652.204-70	1604.705	Contractor Records Retention	M	T	T
1652.204-71	1604.7001	Coordination of Benefits	M	T	T
1652.204-72	1604.7101	Filing Health Benefit Claims/Court Review of Disputed Claims	M	T	T
1652.204-73	1604.970	Taxpayer Identification Number	M	T	T
1652.204-74	1604.7202	Large Provider Agreements	M	T	T
FAR 52.209-6	FAR 9.409(b)	Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment	M	T	T
FAR 52.215-2	FAR 15.209(b)	Audit & Records—Negotiation	A	T	T
FAR 52.215-10	FAR 15.408(b)	Price Reduction for Defective Cost or Pricing Data	M	T	
FAR 52.215-12	FAR 15.408(d)	Subcontractor Cost or Pricing Data	M	T	
FAR 52.215-15	FAR 15.408(g)	Pension Adjustments and Asset Reversions	M	T	
FAR 52.215-16	FAR 15.408(h)	Facilities Capital Cost of Money	M	T	
FAR 52.215-17	FAR 15.408(i)	Waiver of Facilities Capital Cost of Money	A	T	
FAR 52.215-18	FAR 15.408(j)	Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions	M	T	

Clause No.	Text Reference	Title	Use Status	Use With Experience Rated Contracts	Use With Community Rated Contracts
1652.215-70	1615.407-70	Rate Reduction for Defective Pricing or Defective Cost or Pricing Data	M		T
1652.215-71	1615.407-72	Investment Income	M	T	
1652.216-70	1616.7001	Accounting and Price Adjustment	M		T
1652.216-71	1616.7002	Accounting and Allowable Cost	M	T	
FAR 52.219-8	FAR 19.708(a)	Utilization of Small Business Concerns	M	T	T
FAR 52.222-1	FAR 22.103-5(a)	Notice to the Government of Labor Disputes	M	T	T
FAR 52.222-3	FAR 22.202	Convict Labor	M	T	T
FAR 52.222-4	FAR 22.305	Contract Work Hours and Safety Standards Act—Overtime Compensation	M	T	T
FAR 52.222-21	FAR 22.810(a)(1)	Prohibition of Segregated Facilities	M	T	T
FAR 52.222-26	FAR 22.810(a)	Equal Opportunity	M	T	T
FAR 52.222-29	FAR 22.810(g)	Notification of Visa Denial	A	T	T
FAR 52.222-35	FAR 22.1308(a)	Equal Opportunity for Special Disabled Veterans, and Other Eligible Veterans	M	T	T
FAR 52.222-36	FAR 22.1408(a)	Affirmative Action for Workers With Disabilities	M	T	T
FAR 52.222-37	FAR 22.1308(b)	Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans	M	T	T
1652.222-70	1622.103-70	Notice of Significant Events	M	T	T
FAR 52.223-6	FAR 23.505	Drug-Free Workplace	A	T	T
1652.224-70	1624.104	Confidentiality of Records	M	T	T
FAR 52.227-1	FAR 27.201-2(a)	Authorization and Consent	M	T	T
FAR 52.227-2	FAR 27.202-2	Notice and Assistance Regarding Patent and Copyright Infringement	M	T	T
FAR 52.229-3	FAR 29.401-3	Federal, State and Local Taxes	M		T

Clause No.	Text Reference	Title	Use Status	Use With Experience Rated Contracts	Use With Community Rated Contracts
FAR 52.229-4	FAR 29.401-4	Federal, State and Local Taxes (Noncompetitive Contract)	M	T	
FAR 52.229-5	FAR 29.401-5	Taxes—Contracts Performed in U.S. Possessions or Puerto Rico	A	T	T
1652.229-70	FEHBP 1629.402	Taxes—Foreign Negotiated Benefits Contracts	A	T	T
FAR 52.232-8	FAR 32.111(c)(1)	Discounts for Prompt Payment	M	T	T
FAR 52.232-17	FAR 32.617(a) Modification. 1632.617	Interest	M	T	T
FAR 52.232-23	FAR 32.806(a)(1)	Assignment of Claims	A	T	T
FAR 52.232-33	FAR 32.1103(a)	Payment by Electronic Funds Transfer—Central Contractor Registration	M	T	T
1652.232-70	1632.171	Payments—Community-Rated Contracts	A	T	T
1652.232-71	1632.172	Payments—Experience-Rated Contracts	A	T	
1652.232-72	1632.772	Non-Commingling of FEHBP Funds	M	T	
1652.232-73	1632.806-70	Approval for Assignment of Claims	M	T	T
FAR 52.233-1	FAR 33.215	Disputes	M	T	T
FAR 52.242-1	FAR 42.802	Notice of Intent to Disallow Costs	M	T	
FAR 52.242-3	FAR 42.709-6	Penalties for Unallowable Costs	M	T	
FAR 52.242-13	FAR 42.903	Bankruptcy	M	T	T
1652.243-70	1643.205-70	Changes—Negotiated Benefits Contracts	M	T	T
FAR 52.244-5	FAR 44.204(c)	Competition in Subcontracting	M	T	
FAR 52.244-6	FAR 44.403	Subcontracts for Commercial Items	M	T	
1652.244-70	1644.270	Subcontracts	M	T	
1652.245-70	1645.303-70	Government Property (Negotiated Benefits Contracts)	M	T	T

Clause No	Text Reference	Title	Use Status	Use With Experience Rated Contracts	Use With Community Rated Contracts
FAR 52.246-25	FAR 46.805(a)(4)	Limitation of Liability—Services	M	T	
1652.246-70	1646.301	FEHB Inspection	M	T	T
FAR 52.247-63	FAR 47.405	Preference for U.S.-Flag Air Carriers	M	T	T
1652.249-70	1649.101-70	Renewal and Withdrawal of Approval	M	T	T
1652.249-71	1649.101-71	FEHBP Termination for Convenience of the Government—Negotiated Benefits Contracts	M	T	T
1652.249-72	1649.101-72	FEHBP Termination for Default—Negotiated Benefits Contracts	M	T	T
FAR 52.251-1	FAR 51.107	Government Supply Sources	A	T	
FAR 52.252-4	FAR 52.107(d)	Alterations in Contract	A	T	T
FAR 52.252-6	FAR 52.107(f)	Authorized Deviations in Clauses	M	T	T

[52 FR 16044, May 1, 1987, as amended at 55 FR 27418, July 2, 1990; 59 FR 14767, Mar. 30, 1994; 62 FR 47580, Sept. 10, 1997; 62 FR 50435, Sept.25, 1997; 63 FR 55339, Oct. 15, 1998; 65 FR 63388, June 8, 2000; 70 FR 31385, June 1, 2005]